

Best Available Copy

NATIONAL ACCOUNT PROGRAM

EQUIPMENT PURCHASE AGREEMENT

This EQUIPMENT PURCHASE AGREEMENT is entered into as February, 1993 by TOUCHFAX INFORMATION SYSTEMS, INC. Kansas corporation ("TouchFax") and TON SERVICES, INC., a U corporation ("Purchaser").

RECITALS

A. TouchFax is a manufacturer of public-access facsimile communication and information retrieval terminals ("Designated Hardware") which offer an array of Services provided through TouchFax's proprietary computer software ("Licensed Software")

B. Purchaser desires to purchase and TouchFax desires to sell Designated Hardware on a non-exclusive basis for Purchaser's own commercial use.

C. Purchaser acknowledges that the right to use the Licensed Software is not licensed or authorized by this Agreement and shall only be licensed to Purchaser pursuant to a separate Software License Agreement between TouchFax and Purchaser (the "Software License Agreement"). The Software License Agreement is incorporated by reference into this Agreement. Unless otherwise defined herein, capitalized terms contained in this Agreement shall have the meanings assigned to them in the Software License Agreement.

D. The Designated Hardware is activated by credit proprietary card. Purchaser desires that a cash reader be incorporated into the Designated Hardware, and TouchFax agrees to use its best efforts to develop that component.

AGREEMENT

In consideration of the foregoing and the mutual promises and covenants contained herein, TouchFax and Purchaser agree as follows:

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January 27, 1993 DRAFT

ARTICLE I - TERMS OF SALE

1.1 Forecasts.

1.1.1 On the date of execution of this Agreement, Purchaser shall deliver to TouchFax a forecast of its projected purchases of Designated Hardware for the 1993 calendar year on a calendar quarterly basis. The forecast for 1993 shall be attached to this Agreement as Schedule 1.1 - 1993. Commencing October 1, 1993 and continuing each October 1 thereafter during the term of this Agreement, Purchaser shall deliver a forecast of its purchases for the ensuing calendar year on a calendar quarterly basis, each of which shall be added to Schedule 1.1 and be appropriately dated. For example, the forecast for 1994 shall be delivered by October 1, 1993 and be attached as Schedule 1.1 - 1994. TouchFax agrees to deliver the quantities projected in Purchaser's forecasts.

1.1.2 The forecast for the first quarter of 1993 must be for a minimum of 10 units of Designated Hardware and will constitute a Purchase Order for a minimum of 10 units. Provided, at Purchaser's option, the initial minimum 10 unit Purchase Order will not be effective unless TouchFax has completed development of a cash reader in accordance with the specifications referred to in Section 6.1, and either the Licensee Modules have been made operational on the Designated Hardware or TouchFax has provided a Tool Kit to integrate the Licensee Modules. Purchaser may elect to receive shipment of one unit for its internal use prior to development of the cash reader.

1.2 Purchase Orders. Commencing with the second quarter of 1993, Purchaser shall submit written Purchase Orders to TouchFax in substantially the form of Schedule 1.2. TouchFax will use its best efforts to fill each Purchase Order within 90 days after receipt of the Purchase Order; provided, units ordered in excess of Purchaser's quarterly forecast will be shipped at mutually agreeable times. A Purchase Order may provide for multiple shipping points. TouchFax may reject a Purchase Order if it does not comply with this Agreement or if Purchaser is in default under this Agreement or the Software License Agreement. Each Purchase Order shall be governed by and shall incorporate by reference the terms of this Agreement.

1.3 Purchase Price. Purchase Prices for Designated Hardware are specified in Schedule 1.3. The prices in Schedule 1.3 will be guaranteed through December 31, 1993. However, if the price of any component is increased by a factor in excess of 10%, TouchFax may raise its prices accordingly upon submitting written documentation of the increase. (For example, if the price of a monitor increases

from \$400 to \$500, the Purchase Price per unit may be increased by \$100.) If after a Purchase Order is accepted a component becomes unavailable, the parties shall negotiate in good faith to resolve such hardship, which may include an increase in the Purchase Price and/or a delay in delivery.

1.4 Billing and Payment.

1.4.1 Each invoice shall be paid in full by bank check or wire transfer in immediately available funds not later than 30 days after delivery of the Designated Hardware identified in the invoice. However, TouchFax will offer 30 day or other terms only if Purchaser meets TouchFax's credit policies. TouchFax shall have the right to require a corporate guaranty, letter of credit, deposits, payment in advance or other satisfactory arrangement prior to shipment.

1.4.2 In the event TouchFax ships Designated Hardware on open account, TouchFax shall retain (at its election) either title to or a security interest in the same until the Purchase Price has been paid in full. At the request of TouchFax, Purchaser shall execute and deliver any and all documents, in form acceptable to TouchFax, deemed necessary to signify TouchFax's title or, as applicable, perfect its security interest in Designated Hardware sold on account. Nothing contained in this Agreement or in any course of dealing between the parties shall obligate TouchFax to ship Designated Hardware on open account at any time.

1.4.3 Acceptance and endorsement by TouchFax of any instrument for less than the full amount TouchFax claims to be due under a Purchase Order or this Agreement shall not be deemed an admission of payment in full, and any conditions to the contrary noted on the instrument shall not be binding on TouchFax, whether or not TouchFax has notice thereof.

1.5 Delivery and Acceptance.

1.5.1 As a convenience to Purchaser, TouchFax will arrange with Purchaser for the delivery and installation of Designated Hardware at the location(s) specified by Purchaser. All freight, delivery and installation charges shall be paid by Purchaser, FCA (Free Carrier) TouchFax's facility in Lenexa, Kansas, as FCA is defined by ICC Incoterms, ICC Publication No. 460 (July 1990). Purchaser shall bear all risk of loss or damage from the point at which the Designated Hardware is made available at TouchFax's facility for delivery to the carrier.

1.5.2 TouchFax shall not be obligated to ship Designated Hardware if Purchaser is delinquent in payment of any invoice in excess of 30 days. Provided, a delay in payment permitted under Section 1.5.3 shall not constitute a delinquency.

1.5.3 Purchaser shall inspect each unit of Designated Hardware and must notify TouchFax of any problems with or defects in the unit within 20 days after installation to reject delivery. Otherwise, the unit will be deemed accepted and any problems or defects will be covered by TouchFax's limited warranty. If before payment for a unit is due, Purchaser discovers a defect in the unit which is covered by TouchFax's limited warranty, Purchaser shall so notify TouchFax within three days. Upon receipt of such notice, TouchFax will use its best efforts to remedy the defect prior to the due date for payment. If the defect is not remedied prior to the payment due date, Purchaser may suspend payment for the unit until the defect is remedied, whereupon payment must be made in full within five days. TouchFax shall retain title to the unit until payment in full has been received. If TouchFax is unable to remedy a defect on an unpaid unit to Purchaser's satisfaction within 30 days after the due date for payment, TouchFax may at its option terminate this Agreement and recover any units in Purchaser's possession for which the Purchase Price has not been paid.

1.6 Taxes. Any and all excise, sales, use, value-added or other taxes imposed by any governmental body on Purchaser or TouchFax in connection with the sale of Designated Hardware to Purchaser or Purchaser's operation thereof shall be paid by Purchaser, with the exception of income taxes payable by TouchFax. Purchaser shall reimburse TouchFax for any amounts actually paid by TouchFax or withheld by Purchaser on account of any such taxes or levies within 15 days after the date of TouchFax's notice thereof to Purchaser.

ARTICLE II - LIMITED WARRANTY

2.1 Limited Warranty and Warranty Limitation. TouchFax warrants that the Designated Hardware shall be free from material defects in workmanship and materials for a period of 90 days after delivery to Purchaser. THIS WARRANTY IS EXPRESSLY CONDITIONED UPON PURCHASER'S PROPER INSTALLATION (UNLESS INSTALLED BY TOUCHFAX), USE, AND (UNLESS PURCHASER HAS ENTERED INTO A SERVICE CONTRACT WITH TOUCHFAX) MAINTENANCE AND REPAIR OF DESIGNATED HARDWARE IN ACCORDANCE WITH TOUCHFAX'S SPECIFICATIONS AND INSTRUCTIONS AND ALL APPLICABLE LAWS AND REGULATIONS. THIS WARRANTY SHALL NOT APPLY IF DESIGNATED HARDWARE FAILS TO PERFORM DUE TO MODIFICATIONS MADE IN THE DESIGNATED HARDWARE BY OR ON BEHALF OF PURCHASER OR BY TOUCHFAX

PURSUANT TO SPECIFICATIONS SUPPLIED BY PURCHASER, OR DUE TO ACCIDENT; NEGLIGENCE; MISUSE; FAILURE OF ELECTRICAL POWER, AIR CONDITIONING OR HUMIDITY CONTROL; TRANSPORTATION; OR ANY CAUSE OTHER THAN ORDINARY USE.

LIMITATION OF WARRANTY

THE ABOVE IS A LIMITED WARRANTY AND IS THE ONLY WARRANTY MADE BY TOUCHFAX WITH RESPECT TO THE DESIGNATED HARDWARE. NO OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE DESIGNATED HARDWARE IS MADE BY TOUCHFAX. ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, ARE EXPRESSLY DISCLAIMED.

TO THE EXTENT IMPLIED WARRANTIES MAY NOT BE DISCLAIMED, THOSE WARRANTIES ARE EXPRESSLY LIMITED TO THE DURATION OF THE EXPRESS WARRANTY CONTAINED IN THIS SECTION 2.1. The foregoing exclusion is not intended to limit the rights of Purchaser under warranties provided by manufacturers of components, to the extent those warranties have not been voided by (a) modifications to the components made by Purchaser or others, or (b) Purchaser's failure to comply with any conditions imposed under those warranties. Purchaser understands the Licensed Software is warranted solely in accordance with the applicable provisions of the Software License Agreement, and no provision of this Agreement shall constitute any sort of representation or warranty with regard to the Licensed Software.

2.2 Warranty Claims; Limitation of Liability.

2.2.1 Purchaser shall assert all warranty claims in writing to TouchFax as soon as possible, but in any event no later than 15 days after the end of the warranty period recited in Section 2.1. At TouchFax's request, Purchaser shall promptly supply such evidence of breach of warranty as TouchFax may reasonably request. TouchFax shall pay the cost of transportation to and from TouchFax's facility for Designated Hardware requiring warranty service, and Purchaser shall pay such costs for any service not covered by warranty. Purchaser may not suspend payment on account of a claim for breach of warranty or of this Agreement except as permitted under Section 1.5.3.

2.2.2 PURCHASER'S EXCLUSIVE REMEDY UNDER THE FOREGOING WARRANTY SHALL BE THE REPAIR OR REPLACEMENT, AT TOUCHFAX'S OPTION, OF THE DESIGNATED HARDWARE OR COMPONENTS THEREOF, AS APPLICABLE, PLUS TRANSPORTATION FOR WARRANTY SERVICE AS SET

FORTH ABOVE. IN NO EVENT SHALL TOUCHFAX BE LIABLE FOR ANY ACTUAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES RESULTING FROM ANY USE OF THE DESIGNATED HARDWARE OR ARISING OUT OF ANY BREACH OF WARRANTY OR OF THIS AGREEMENT OR APPLICABLE LAW, EVEN IF TOUCHFAX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIMS BY ANY PARTY OTHER THAN PURCHASER. ANY ACTION FOR BREACH OF WARRANTY MUST BE COMMENCED BY PURCHASER WITHIN ONE YEAR FOLLOWING DELIVERY OF THE APPLICABLE DESIGNATED HARDWARE.

2.3 Indemnification for Unauthorized Warranties. Touchfax shall not be responsible for any warranties of Purchaser which exceed the limited warranty made in Section 2.1. Purchaser shall indemnify TouchFax against any claims, damages, costs and expenses that TouchFax may incur arising out of or relating to any warranty made by Purchaser which exceeds TouchFax's limited warranty.

2.4 Service. Until expiration of the limited warranty, any service on Designated Hardware by Purchaser or its contractors must comply with TouchFax's specifications and instructions.

2.5 Use. Purchaser shall cause Designated Hardware to be operated only in accordance with the written specifications and instructions of TouchFax and only in a suitable environment and in a safe manner. Purchaser acknowledges that (a) any failure to comply with the foregoing; (b) any failure to comply with Section 2.4; or (c) any modification of the Designated Hardware could negate the warranty obligations of TouchFax or others and could result in injury or ineffectiveness of the Designated Hardware. TouchFax shall not be liable or responsible for any damage to or loss of any Designated Hardware or any injury or damage arising from: (i) any negligent or improper use or operation of the Designated Hardware; (ii) any modification or enhancement to the Designated Hardware by any party other than TouchFax; or (iii) any failure to follow TouchFax's specifications, documentation or instructions or any warning labels or other written materials regarding the installation, operation, service, repair or maintenance of Designated Hardware.

ARTICLE III - CONFIDENTIALITY

3.1 Confidential Information. As used herein the term "Confidential Information" means any and all data and information of or relating to the disclosing party (a) which the receiving party receives or of which it becomes aware or with which it comes in contact as a consequence of or in connection with this Agreement; (b) which has value to the disclosing party and is not generally known by its competitors; and (c) which is treated by the disclosing party as confidential. Provided, Confidential

Information does not include any data or information which is already known to the receiving party at the time it is disclosed to the receiving party, or which before being divulged by the receiving party (i) has become generally known to the public through no wrongful act of the receiving party; (ii) has been rightfully received by the receiving party from a third party without restriction on disclosure and without, to the knowledge of the receiving party, a breach of an obligation of confidentiality running directly or indirectly to the disclosing party; (iii) has been approved for release by a written authorization of the disclosing party; (iv) has been disclosed pursuant to a requirement of a governmental agency without similar restrictions or other protections against public disclosure, or is required to be disclosed by operation of law, provided the receiving party shall have first given written notice of such required disclosure to the disclosing party, made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which disclosure is required, and taken reasonable steps to allow the disclosing party to seek to protect the confidentiality of the information required to be disclosed; (v) is independently developed by the receiving party without use, directly or indirectly, of any Confidential Information received from the other party; or (vi) is furnished to a third party by the disclosing party without restriction on the third party's right to disclose the information. Confidential Information shall include, but shall not be limited to, information relating to, contained in or consisting of the disclosing party's business, intellectual property, ideas, concepts, notes, memoranda, products, processes, financial condition, source codes, object codes, trade secrets, commercial secrets, industrial secrets, work in process, research, developments, technology, methods, strategies, drawings, designs, computer software, patent applications, patents pending, and other similar information.

3.2 Preservation. Each party shall use the same care and discretion, but in no event less than reasonable care and discretion, to prevent unauthorized use, disclosure, publication or dissemination of the other party's Confidential Information as it employs with similar information of its own.

3.3 Nonuse and Nondisclosure. Neither party shall use for any purpose or distribute, disclose or disseminate to others any Confidential Information of the other party without the express written consent of that party, except as specifically permitted in this Article III or as directly necessary in the performance of this Agreement.

3.4 Employees and Contractors. Disclosure by either party of the Confidential Information of the other party may be made only to employees, agents or independent contractors of the receiving party who are directly involved in performing under this Agreement and

have a specific need to know such information. Each party's employees and contractors shall be bound by the restrictions in this Article III.

3.5 Materials. Within 15 days following receipt of a written request referring to this Article III from either party, the other party will deliver to the requesting party all tangible materials and all copies thereof containing or embodying any Confidential Information received from the requesting party.

3.6 Effective Date. The covenants of confidentiality in this Article III will apply after the date of this Agreement to any Confidential Information disclosed by the parties, whether prior to or after such date, and will continue during the term of this Agreement and for a period of four years after the date of expiration or termination of this Agreement.

ARTICLE IV - TRADEMARKS

4.1 Trademarks. One TouchFax Trademark will be affixed to the Designated Hardware on a logo plate no larger than 3" x 2", and will be displayed by the Licensed Software by copyright and/or patent notice or otherwise. Purchaser shall not remove, conceal, alter or deface the logo plate or the TouchFax Trademark from or on the Designated Hardware or alter any Designated Hardware during the term of this Agreement or the Software License Agreement. Purchaser shall have no right to use or sub-license others the right to use any of TouchFax's Trademarks except as provided in the Software License Agreement. The provisions of this Section 4.1 are in addition to, and not in limitation of, the provisions on Trademarks contained in the Software License Agreement. However, Purchaser may discontinue displaying TouchFax's Trademarks upon expiration of the Software License Agreement, provided Purchaser is no longer using TouchFax's software or offering any TouchFax Services.

ARTICLE V - TERMINATION, INJUNCTIVE RELIEF AND ARBITRATION

5.1 Term and Termination. This Agreement shall be for a term commencing on the date hereof and ending December 31, 1993, unless extended by written agreement of TouchFax and Purchaser. Provided, this Agreement may be terminated by TouchFax by written notice to Purchaser in the event (a) Purchaser fails to order at least 10 units of Designated Hardware in the first quarter of 1993, except as provided in Section 1.1.2; (b) the Purchase Price for any Designated Hardware sold on account is not paid in full within 30 days after the date of written notice of non-payment from TouchFax,

except as permitted in Section 1.5.3; (c) TouchFax exercises the option to terminate granted in Section 1.5.3; or (d) in the event of a material failure by Purchaser to observe any covenant contained in Article IV. In addition, either party (the "Non-Defaulting Party") may terminate this Agreement for cause by giving written notice thereof to the other party (the "Defaulting Party"). For purposes of this Agreement, "cause" shall be limited to: (i) the bankruptcy, insolvency, dissolution, assignment for the benefit of creditors, receivership or cessation of business of the Defaulting Party; (ii) the Defaulting Party's failure to observe any covenant contained in Article III or Section 7.3 of this Agreement; (iii) any breach by the Defaulting Party of the Software License Agreement or any termination of the Software License Agreement for cause; or (iv) any breach by the Defaulting Party of any of the other provisions of this Agreement which is not cured to the reasonable satisfaction of the Non-Defaulting Party within 30 days after the date of written notice from the Non-Defaulting Party setting forth the nature of such breach. However, if the nature of the breach is such that it cannot reasonably be cured within 30 days, the Defaulting Party shall have a reasonable period of time not exceeding 30 additional days to cure the breach, provided it commences to cure within the initial 30 day period and diligently prosecutes the same thereafter. All outstanding invoices for Designated Hardware shipped prior to the date of expiration or termination of this Agreement shall be paid in full by Purchaser not less than 30 days after such date.

5.2 Injunctive Relief. TouchFax may obtain injunctive relief against any breach or threatened breach by Purchaser of the provisions of Article IV, and either party may obtain injunctive relief against any breach or threatened breach by the other party of the provisions of Article III, without the necessity of posting bond or proving lack of an adequate remedy at law.

5.3 Arbitration. With the exception of an action for injunctive relief under Section 5.2, any dispute, controversy or claim arising out of or relating to this Agreement or any breach hereof shall be resolved by arbitration in accordance with the Rules of the American Arbitration Association ("AAA"), as amended, except as modified hereby.

5.3.1 Unless otherwise agreed by TouchFax and Purchaser, the arbitration panel shall consist of three arbitrators, one to be appointed by TouchFax and one to be appointed by Purchaser, with the third to be appointed by the two arbitrators appointed by TouchFax and Purchaser. If either of the parties fails to appoint an arbitrator within 30 days after receipt of notice of an appointment by the other of its arbitrator, or if the two arbitrators fail to appoint a third, then the AAA will have the power, at the request of either

party, to make the appointment(s) which have not been made as contemplated above.

5.3.2 The arbitrators shall not have the power of amiables compositeurs. The arbitration proceedings shall be held at a location agreed upon by TouchFax and Purchaser. Provided, if TouchFax and Purchaser fail to agree on a location within 30 days, at the request of either party, the arbitrators shall establish the location. Both parties shall be entitled to representation by counsel, to appear and present oral and written evidence and argument, to compel the testimony of witnesses and the production of documents, to obtain a written list of the other party's witnesses and documents prior to the hearing, and to examine and cross-examine witnesses. The substantive law governing this Agreement shall also govern the arbitration proceedings. The decision of a majority of the arbitrators shall be controlling on all issues. The arbitral award shall be in writing and shall explain the reasons for the award and shall be final and binding on the parties. The expense of arbitration shall be shared equally by the parties unless otherwise decided by the arbitrators.

5.3.3 Each party agrees that final judgment on an arbitral award rendered against it in any action or proceeding relating to this Agreement shall be conclusive and may be enforced, to the extent permitted by applicable law, in any jurisdiction within or without the United States by suit on the judgment, a certified copy of which shall be conclusive evidence thereof, or by such other means provided by applicable law.

5.4 Service of Process. Each party consents to service of process upon it in any proceeding brought pursuant to Section 5.2 or 5.3 by mailing copies of any notice or pleadings thereof by registered mail, postage prepaid, return receipt requested, to it at its address set forth in Section 7.5. This shall not limit the right of either party to serve process in any other manner permitted by applicable law and shall not limit the ability of either party to bring any proceeding or to obtain execution of any judgment rendered in any proceeding in any other jurisdiction in which the other party or any of its property or assets may be found.

ARTICLE VI - CASH READER

6.1 Development. TouchFax agrees to use its best efforts to develop a cash reader for Purchaser. The specifications, development schedule, warranty provisions, compensation arrangement and other terms of the development project shall be recited in Schedule 6.1.

ARTICLE VII - GENERAL

7.1 Independent Contractors. Nothing contained herein shall constitute TouchFax and Purchaser as partners, agents, joint venturers or in any capacity other than seller and purchaser of equipment, respectively. TouchFax and Purchaser are independent contractors. Neither shall have the right to bind or obligate the other in any manner whatsoever.

7.2 Publicity and Advertising. TouchFax shall not use the name, logo or trademarks of Purchaser in any press release, business proposal, promotional literature, financial or annual report or similar materials without Purchaser's prior written consent. Provided, TouchFax may identify TON Services, Inc. in such materials as a customer of TouchFax and Flying J Truck Stops as a customer of TON Services, Inc.

7.3 Assignment. This Agreement may not be assigned by either party without the express, written consent of the other party, which consent shall not be unreasonably withheld. Provided, either party may assign this Agreement in connection with a merger, consolidation, reorganization or sale of all or substantially all of its assets, provided the assignee agrees to be bound by the terms hereof. Any attempted assignment in contravention of this Section 7.3 shall be null and void.

7.4 Force Majeure. With the exception of Purchaser's payment obligation under Article I, neither party shall be liable to the other for delay or failure to perform any obligation hereunder due to an event of force majeure, including but not limited to acts of God or of the public enemy, fire, storm, flood, explosion, earthquake, hurricane, riots, wars, hostilities, civil commotion, strikes or labor disputes, interruption of supply, law or regulation, governmental action, or any other cause beyond the control of that party.

7.5 Notices. Any notice or communication required or permitted hereunder may be hand delivered or sent by registered or certified mail, return receipt requested, or by facsimile transmission:

If to TouchFax:

TouchFax Information Systems, Inc.
15520 College Boulevard
Lenexa, KS 66219
Fax: (913) 599-5588

If to Purchaser:

TON Services, Inc.
50 West 900 South
Brigham City, UT 84302
Fax: (801) 734-6550

or to such other address or facsimile number of which either party may advise the other in writing.

7.6 Compliance with Law; FCC and Safety Certification.

7.6.1 TouchFax shall use its best efforts to obtain any additional FCC and safety certification of Designated Hardware required by the addition of the cash reader. Purchaser shall pay the cost of such certification up to a maximum of \$7,500. Fifty percent of such cost will be credited to Purchaser after 50 units of Designated Hardware are purchased, and the remainder of such cost will be credited to Purchaser after 100 units are purchased.

7.6.2 Purchaser shall be responsible for FCC and safety certification arising from any modifications or additions to the Designated Hardware made by Purchaser; provided, nothing contained herein shall constitute TouchFax's consent to such modifications or additions.

7.6.3 Purchaser shall obtain all other required governmental permits and comply with all applicable laws and ordinances in connection with Purchaser's operation of Designated Hardware.

7.7 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and both of which, taken together, shall constitute one and the same instrument.

7.8 Further Assurance. At the request of either party, the other party shall execute and deliver such further instruments, documents, covenants, undertakings and assurances deemed necessary or desirable to implement the terms hereof.

7.9 Entire Agreement; Amendment. Together with the Software License Agreement and all Schedules hereto, this constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior expression of intent or understanding, oral or written, including but not limited to that certain Confidentiality Agreement dated September 9, 1992. The provisions of this Agreement are for the benefit of the parties

hereto solely, and not for the benefit of any other person or entity. This Agreement shall not be modified, altered or amended except in writing and signed by TouchFax and Purchaser.

7.10 Waiver. Any waiver of a failure or delay in performance shall be effective only if in writing and only in accordance with its terms. The waiver of one breach or default shall not constitute the waiver of any subsequent breach or default and shall not act to amend or negate the rights of the parties under this Agreement.

7.11 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Kansas.

7.12 Indemnification.

7.12.1 Purchaser shall indemnify TouchFax for any costs or damages TouchFax is required to pay arising out of Purchaser's breach of this Agreement.

7.12.2 TouchFax shall indemnify Purchaser for any costs or damages Purchaser is required to pay arising out of TouchFax's breach of this Agreement, subject to the limitations in Article II and elsewhere in this Agreement and to compliance by Purchaser, its employees and contractors, with TouchFax's warning labels, specifications, instructions and documentation.

7.13 Charges to End Users. TouchFax shall have no control over the rates charged by Purchaser to End Users for Services provided through Designated Hardware.

7.14 Severability. If any of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, then such provision shall be considered inoperative to the extent of such invalidity, illegality or unenforceability and the remainder of this Agreement shall continue in full force and effect. The parties agree to replace any such invalid, illegal or unenforceable provision with a new provision which has the most nearly similar permissible economic effect.

7.15 Headings. Headings are included in this Agreement as a matter of convenience only and shall not be controlling with regard to the interpretation of this Agreement.

IN WITNESS WHEREOF, TouchFax and Purchaser have executed this Agreement as of the date first above written.

TOUCHFAX INFORMATION SYSTEMS,
INC.

By: 

Title: CHAIRMAN

"TouchFax"

TON SERVICES, INC.

By: 

Title: President

"Purchaser"

SCHEDULE 1.1 - 1993

Forecasted Purchases for Calendar 1993

First Quarter*:

Second Quarter:

Third Quarter:

Fourth Quarter:

*The forecast for the first quarter of 1993 must be for a minimum of 10 units, subject to the provisions of Section 1.1.2. Forecasts for 1994 and future years will be due by October 1 of the prior year.

SCHEDULE 1.1 - 1993

Forecasted Purchases for Calendar 1993

First Quarter:	January	- 0	Total - 10
	February	- 1	
	March	- 9	
Second Quarter:	April	- 9	Total - 27
	May	- 0	
	June	- 18	
Third Quarter:	July	- 18	Total - 54
	August	- 18	
	September	- 18	
Fourth Quarter:	October	- 10	Total - 30
	November	- 10	
	December	- 10	
Forecast 1993 -----		Total - 121	

SCHEDULE 1.2

Form of Purchase Order